



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,110	12/02/2003	Gary Searle	03-062-GS	4782

7590 07/10/2008
LAMBERT & ASSOCIATES
SUITE 200
92 STATE STREET
BOSTON, MA 02109

EXAMINER

GETTMAN, CHRISTINA DANIELLE

ART UNIT	PAPER NUMBER
----------	--------------

3734

MAIL DATE	DELIVERY MODE
-----------	---------------

07/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: GARY SEARLE

Application No. 10/726,110
Date Mailed: July 9, 2008

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received at the Board of Patent Appeals and Interferences on April 2, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner. The matters requiring attention prior to docketing are identified below.

EXAMINER'S ANSWER

A review of the application reveals that the Final Rejection mailed January 20, 2006, (Office Action Summary), the Appeal Brief entered May 16, 2007 (page 2) and an Examiner's Answer mailed September 11, 2007 (page 3) include claims 17 and 18 among the claims presented for examination. However, claims 17 and 18 are not included in any statement of rejection presented for review by the Board in either the Final Rejection or the Examiner's Answer.

EXAMINER'S CONSIDERATION OF AMENDMENT

The Examiner must consider and acknowledge receipt of the Amendment filed subsequently with the Reply Brief dated November 15, 2007, via written communication.

MPEP § 1206 states:

Examiners must respond to all amendments filed after appeal has been taken and prior to termination of the appeal. If the examiner indicates (in the advisory action) that an amendment would be entered, it is imperative for the examiner to also state (in the same advisory action) how the individual rejection(s) set forth in the final Office action will be impacted by the entry of the amendment except where an amendment merely cancels claims.

CONCLUSION

Accordingly, it is

ORDERED that the application is returned to the Examiner to:

Application No. 10/726,110

1) issue and mail a revised Examiner's Answer clarifying the status of claims 17 and 18 and in accordance with MPEP § 1207.03 (New Grounds of Rejection);

2) consider the Amendment filed in accordance with MPEP § 1206; and

3) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: /Krista Zele/

Krista Zele

Deputy Chief Appeals Administrator

(571) 272-9797

KZ/tsj

cc: LAMBERT & ASSOCIATES
SUITE 200
92 STATE STREET
BOSTON, MA 02109